#409

BILL NO. Z-89-12-16

ZONING MAP ORDINANCE NO. Z-Lash.

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. O-3.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a R-3 (Multi-Family Residential) District under the terms of Chapter 33 of the Code of the City of Fort Wayne, Indiana of 1974:

Lots Numbered 14 and 15 in Lahmeyer's Addition to the City of Fort Wayne

and the symbols of the City of Fort Wayne Zoning Map No. O-3, as established by Section 11 of Chapter 33 of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Janet G. Bradbury
Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. Timothy McCaulay
J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Bradbury, seconded by Borg, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____M.,E.S.T.

DATED: 12-12-89. Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury, seconded by Talarico, and duly adopted, placed on its passage. ~~PASSED~~ LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES		8		1
BRADBURY		✓		
BURNS		✓		
EDMONDS		✓		
GiaQUINTA		✓		
HENRY		✓		
LONG				✓
REDD		✓		
SCHMIDT		✓		
TALARICO		✓		

DATED: 3-27-90. Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. _____ on the _____ day of _____, 19____

ATTEST: (SEAL)

_____ _____

SANDRA E. KENNEDY, CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19___, at the hour of _____ o'clock _____.M.,E.S.T.

_____

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____M.,E.S.T.

_____

PAUL HELMKE, MAYOR

PRESCRIBED BY STATE BOARD OF ACCOUNTS

[illegible] GENERAL FORM NO. 352

RECEIPT

№ 7261

COMMUNITY DEVELOPMENT & PLANNING

FT. WAYNE, IND., 11/9 1989

RECEIVED FROM Veterans of Foreign Wars $100.00

THE SUM OF One Hundred & 00/100 DOLLARS

ON ACCOUNT OF 2431 & 2435 Winter Street

Rezone R-2-K-3

#7789

PAID BY: CASH ☐ CHECK ☑ M.O. ☐

[illegible]

AUTHORIZED SIGNATURE

PETITION FOR ZONING ORDINANCE AMENDMENT

RECEIPT NO. _____

DATE FILED _____

INTENDED USE _____

THIS IS TO BE FILED IN DUPLICATE

I/We Veterans of Foreign Wars Post 8147
(Applicant's Name or Names)

do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from a/an R-2 District to a/an R-3 District the property described as follows:

Lots Numbered 14 and 15 in Lahmeyer's Addition to the City of Fort Wayne.

(Legal Descrption) If additional space is needed, use reverse side.

ADDRESS OF PROPERTY IS TO BE INCLUDED:

2431 and 2435 Winter Street, Fort Wayne, Indiana 46803

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

(Name)	(Address)	(Signature)
Walter Raines, Commander	2441 Winter St. Fort Wayne, IN 46803	X Walter Raines
Percival Moore, Quarter Master	2441 Winter St. Fort Wayne, IN 46803	X Percival Moore

(If additional space is needed, use reverse side.)

Legal Description checked by _____.
(OFFICE USE ONLY)

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or requst that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice pertaining to the ordinanc being sent to the newspaper for legal publication. If the request for deferral continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at whic it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that an ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the matt for hearing before the City Plan Commission. (FILING FEE $50.00)

Name and address of the preparer, attorney or agent.

(Name)	(Address & Zip Code)	(Telephone Number)
Thomas A. Swihart	710 Lincoln Bank Tower Fort Wayne, IN 46802	(219) 422-9402

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street, Fort Wayne, IN 46802 (PHONE: 219/ 427-1140).

Applicants, Property owners and preparer shall be notified of the Public Hearin approximately ten (10) days prior to the meeting.

CERTIFICATE OF SURVEY

OFFICE OF:

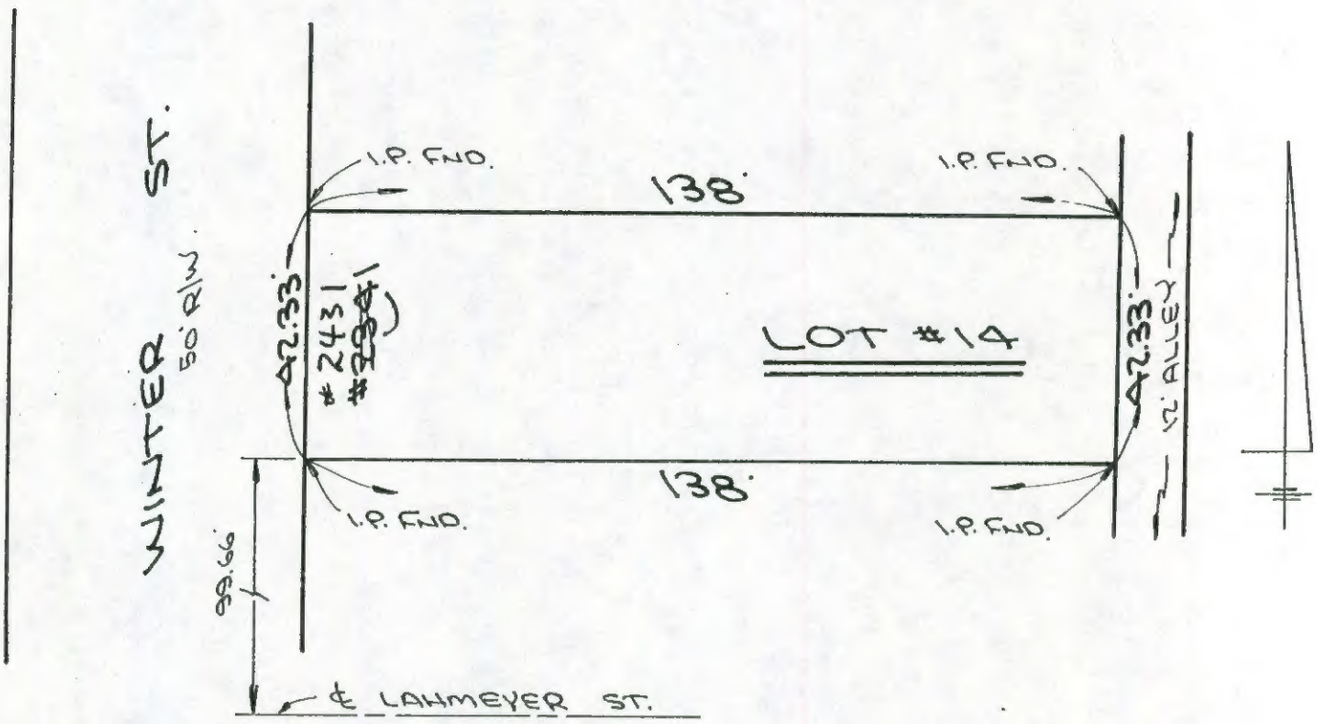
DONOVAN ENGINEERING

JOHN R. DONOVAN P.E. No. 9173 P.L.S. No. 9921 INDIANA
FRANCIS X. MUELLER P.L.S. No. S0193 INDIANA
GREGORY L. ROBERTS P.L.S. No. S0548 INDIANA
FORT WAYNE, INDIANA

The undersigned Civil Engineer and Land Surveyor hereby ceritfies that he has made a resurvey of the real estate shown and described below.

Measurements were made and corners perpetuated as shown hereon, in accordance with the true and established lines of the property described, and in conformity with the records in the office of the County Recorder, ALLEN County, Indiana. No encroachments existed, except as noted below.

The description of the real estate is as follows, to wit: Lot Numbered 14 in Lahmeyer's Addition as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana.



NOTE: According to the Flood Insurance Rate Map, (FIRM) number 180003 0010B, dated April 3, 1985, the herein described real estate is located in Zone "C", and is not in a flood hazard area.

S.R. ON FILE

JOHN R. DONOVAN REGISTERED No. 9921 STATE OF INDIANA LAND SURVEYOR

JOB FOR: V.F.W. POST 8147

1" = 30'
5-8-89

CERTIFICATE OF SURVEY

OFFICE OF: DONOVAN ENGINEERING

JOHN R. DONOVAN P.E. No. 9173 P.L.S. No. 9921 INDIANA
FRANCIS X. MUELLER P.L.S. No. S0193 INDIANA
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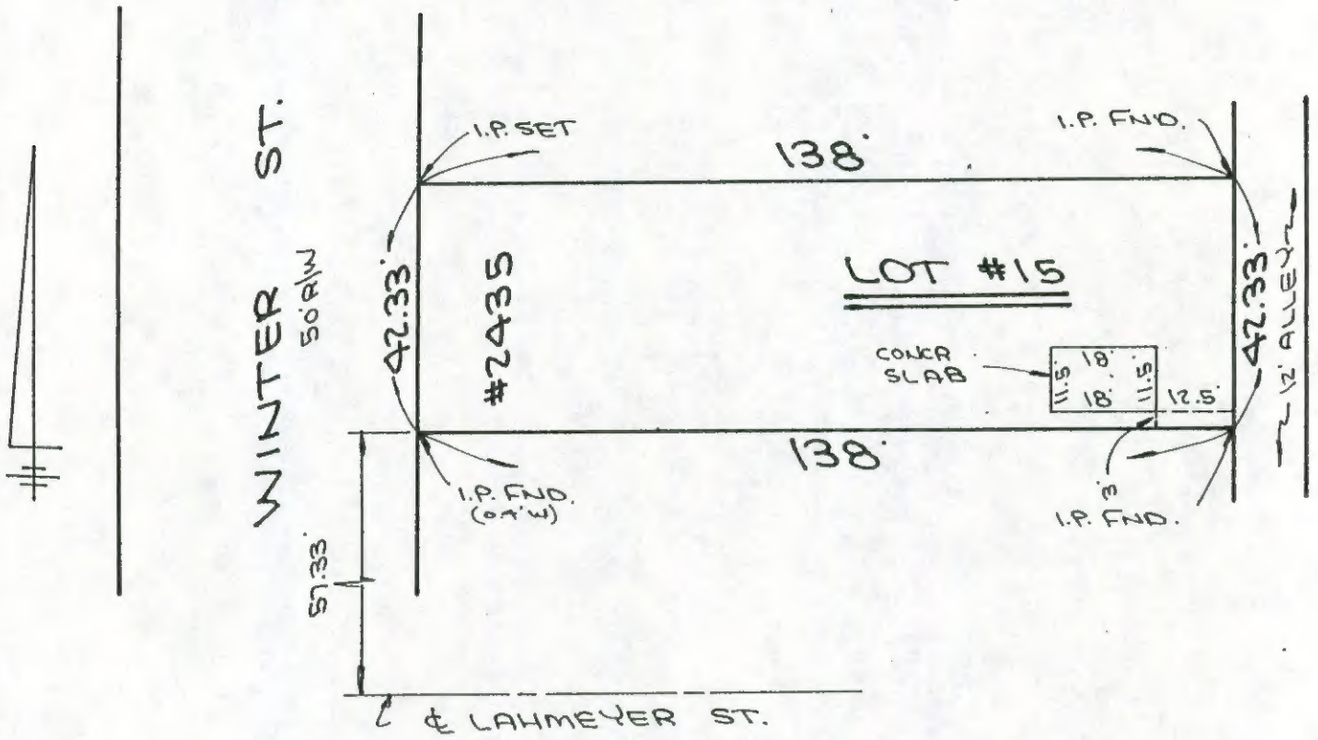
Measurements were made and corners perpetuated as shown hereon, in accordance with the true and established lines of the property described, and in conformity with the records in the office of the County Recorder, ALLEN County, Indiana. No encroachments existed, except as noted below.

The description of the real estate is as follows, to wit: Lot Numbered 15 in Lahymeyer's Addition as recorded in the plat thereof in the Office of the Recorder of Allen County.



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S.R. ON FILE

JOHN R. DONOVAN REGISTERED No. 9921 STATE OF INDIANA LAND SURVEYOR

JOB FOR: V.F.W. POST 8147

1" = 30'
10-30-89

K

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on December 12, 1989 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-89-12-16; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on December 18, 1989 and January 22, 1990.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO NOT PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will be injurious to the public health, safety, morals and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will be affected in a substantially adverse manner;

(3) the need for the rezoning does not arise from conditions peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will not constitute an unusual and unnecessary hardship to this property;

(5) the grant interferes substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law; and,

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held January 29, 1990.

Certified and signed this
31st day of January 1990.

Robert Hutner
Secretary

#409

ORIGINAL ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Zoning Ordinance Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE 2431 & 2435 Winter Street

2-89-12-16

EFFECT OF PASSAGE Property is presently zoned R-2 - Two Family Residential. Property will become R-3 - Multi-Family Residential.

EFFECT OF NON-PASSAGE Property will remain R-2 - Two Family Residential.

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

(ASSIGN TO COMMITTEE (J.N.)

FACT SHEET

Z-89-12-16
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE Zoning Ordinance Amendment From R-2 to R-3

APPROVAL DEADLINE

REASON

DETAILS

Specific Location and/or Address

2431 & 2435 Winter Street

Reason for Project

Expansion of VFW Post #8147

Discussion (Including relationship to other Council actions)

December 18, 1989 - Public Hearing

Minutes of hearing are attached.

January 22, 1990 - Public Hearing

Minutes of hearing are attached.

January 29, 1990 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO NOT PASS recommendation.

Of the seven (7) members present, six (6) voted in favor of the motion, one (1) did not vote. Motion carried.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	**City Wide** **Other Areas**
Applicants/ Proponents	**Applicant(s)** VFW Post #8147 **City Department** **Other**
Opponents	**Groups or Individuals** Wm Hughes/2609 Reed St Amelia Culpha/2508 Lillie St **Basis of Opposition** -expansion of Post would add to deterioration in area -expansion is not in keeping with residential character of area
Staff Recommendation	☐ For ☒ Against **Reason Against** -could lead to further deterioration of housing stock in area
Board or Commission Recommendation	**By** ☐ For ☒ Against ☐ No Action Taken ☐ For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	☐ Pass ☐ Other ☐ Pass (as amended) ☐ Hold ☐ Council Sub. ☐ Do not pass

DETAILS

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start Date 9 November 1989

Projected Completion or Occupancy Date 31 January 1990

Fact Sheet Prepared by Date 31 January 1990

Patricia Biancaniello

Reviewed by Date 1-31-90

Larry Maglizzi

Reference or Case Number

b. Bill No. Z-89-12-16 - Change of Zone #409
From R-2 to R-3
2431 & 2435 Winter Street

Tom Swihart, attorney for the petitioners appeared before the Commission. Mr. Swihart requested that the Commission defer this request to the January 22, 1990 Public Hearing. Mr. Swihart stated that they had just received the staff comments on Friday and did not feel that they had adequate time to respond to a negative recommendation. He stated they were not aware that they would have opposition to this request and did not come prepared to address the opposition.

A motion was made to defer the request, but following discussion and the fact that a number of people were present to speak in opposition to the request the Commission withdrew its motion and instead decided to hear the petitioner and opposition, but to continue the public hearing on January 22, 1990. They felt this would give the petitioner time to prepare more information.

Tom Swihart, stated that the basis for the petition is a request to basically revamp and improve the present facility on this property. He stated that they own the two lots immediately north of their existing post. He stated that this post has been there approximately 20 years, it is not in the best condition and they would like to in effect upgrade the neighborhood by putting in a new building. He stated that the plan is to put a new building on the two lots to the north and then tear down the old one. He stated that in their opinion, since they are there it would be expensive to purchase new land and to construct a new facility. He stated that they cannot really afford to both move and build. He stated that he was out and looked around the neighborhood and stated he felt that the area is in a state of deterioration and that this new construction would only enhance the area.

Bob Hutner stated that he hoped that when they come back for the continuance they would have new information or some other arrangement that would come from meetings with the neighborhood association, rather than repeating the same information. He stated that he felt the opponents should have just a couple people speak and reserve some of their ammunition for the next meeting.

Mel Smith questioned if they had a rendering of the building they are proposing.

Mr. Swihart stated it will be presented at the next meeting.

Alphonso Hines, Chairman of the Trustee Board of the Veterans of Foreign Wars appeared before the Commission. Mr. Hines stated that they are working on a 1/4 of million dollar plan for construction. He stated that they have also contacted I&M for better lighting for the area. He stated that they are talking about hiring security for the weekends. He stated that they

intend to blacktop the parking areas as well as screen them and landscape the area. He stated that RW Kain is drawing up the plans for the new building.

William Hughes, 2609 Reed Street, appeared before the Commission in opposition. Mr. Hughes stated that he has lived in this area since 1967. He presented the Commission with a petition with approximately 35 signatures of area residents that read: "We the residents and/or homeowners in the area of the proposed new building site for the Veterans of Foreign Wars at 2435 Winter Street do hereby object to this project for the following reasons:

(1) The area is a residential area.
(2) There is a park less than 150 feet (from) the building site.

(3) The traffic on Winter Street is too heavy. Cars are parked in the No Parking area, on sidewalks, and cars block the alley west of present building.

(4) Patrons of the VFW, especially during warm weather, are outside of the building drinking and making a lot of noise keeping residents awake into the early hours of the morning.

(5) This new building with its negative affects will further devalue the homes in the area.

We appeal to the Zoning Commission to deny the request to build or make any expansions of said property."

Steve Smith if the VFW Post is not granted the change and they basically make no change to the building the disturbing situation that was described will remain the same. He questioned if improving would not be the better of two evils.

Mr. Hughes stated he did not think so. He stated that if things continue the way they are they intend to make an appeal to the Alcoholic Beverage Commission to repeal their license. He stated even though they build a new post it will be larger and bring more people, more noise and more traffic.

Amelia Culpha, 2508 Lillie reiterated what Mr. Hughes had stated about the traffic, noise and drinking. She stated that she lives just east of the VFW at this time. She stated that they (VFW) have tried to put in parking without being properly zoned and without permits. She stated that they do not require people who use their facility to be a member. She stated that she has seen what she felt was minors going into the building. She stated also that this establishment has been the direct cause of fights, shootings and killings in the neighborhood from people who have been drinking at the VFW Post. She stated she felt this use was a detriment to the area.

John Shoaff suggested that since this hearing was being continued to the January 22, 1990 Public Hearing that if the people in opposition would hold the remainder of their comments until the next hearing and if Mr. Swihart would care to hold his rebuttal until the next hearing that it would be a fair trade off and they would stop taking testimony this evening.

a. Bill No. Z-89-12-16 - Change of Zone #409
From R-2 to R-3
2431 & 2435 Winter Street
This petition was continued from the December 18, 1989 public hearing.

Tom Swihart, attorney for the petitioners appeared before the Commission. Mr. Swihart stated this was continued in order to give the petitioners an opportunity to respond to some of the criticism that some of the residents had given. He presented the Commission with a rendering of the project. He stated that this may not be an easy rezoning to approve. He stated he had looked over the Hanna-Creighton Proposals from years back and what struck him was that these proposals seem to say that they want to preserve as much of the southwest portion of this area as single family residential. He stated that after reading this plan from 1978 and having been in the neighborhood to look around, he felt the proposal is not really going the way they planned it should in 1978. It appeared to him that the area is still going downhill. He stated that this VFW Post has been in the neighborhood for 20 years. He stated that they do not want to move, that they are trying to improve their position in the neighborhood by upgrading their facility substantially. He stated that to do this they need more space. He presented the Commission with a map marked with all of the vacant and abandoned properties. He stated that a great deal of the area is industrial and another large portion is already zoned R-3. He stated that the principal portion that is R-1 is basically around where the VFW Post is located. He stated he is not stating these facts to criticize the neighborhood but to point out that the plan from 1978, while good in theory, has not worked. He stated with that in mind the VFW Post is there, and have been there for 20 years and want to put something back into the neighborhood. He stated they would like to improve their property by expanding into a new facility, but they cannot do it on the property they have, they need the additional lots rezoned. He stated that they have put in excess of $100,000 into their property. He stated that with regard to the criticism relating to the traffic on Winter Street, that Winter Street is a natural dumping spot for anyone coming down the 4-lane Wallace Street, and going over to Pontiac and Oxford. He stated that he did not feel that they were contributing to the traffic flow on Winter Street. He stated that if they get the rezoning and can construct a better facility, it will also free some lots for parking. He stated that he has been to the facility in the evening and he did not observe that many vehicles parked on the street. He stated if they do not get the rezoning they will be unable to improve this area. He stated that they have spoken with I&M to put in some additional lighting. He stated that they believe that this would definitely be an improvement to the area.

Wil Smith questioned if the $100,000 investment mentioned was recent.

Mr. Swihart stated that he has been informed that is what has been put into the facility already along with the cost of the purchase of 3 or 4 lots recently.

Alfonso Hines, Chairman of the Trustee Board of the Veterans of Foreign Wars stated that they have recently spent $14,000 in purchasing lots and razing the structures on them and clearing the lots. He stated they are trying with a long range program to eliminate parking on the streets. He stated that since they purchased the building it has been renovated about 4 times. He stated they have also added a $40,000 addition.

Mel Smith questioned if the VFW belonged to the neighborhood association.

Mr. Hines stated that they have a member who belongs to the neighborhood association. Mr. Hines stated that they sponsor Little League, they donate money to the Y in the area, they also sponsor the Midget Football team. He stated they put on dinners for the homeless, and contribute Christmas baskets to the needy.

David Long questioned if they were knocking down houses to make room for parking on this precise area or is that the existing facility.

Mr. Hines stated that the two lots north of the existing building have been purchased and they are cleared of any structures. This is where they intend to place the new building if rezoned. He stated that if they get the rezoning they will remain in the existing building until the new one is complete and then they would tear it down and this area would become parking.

Mel Smith questioned if they will have ample parking to allow for all of their members to park off of the street.

Mr. Hines stated they do not presently have enough parking. He stated that if they get the rezoning they will have enough parking.

The following people spoke in opposition:

Mrs. Leon McGhee, 2343 Winter Street
William Hughes, 2609 Reed Street
Amelia Culpha, 2508 Lillie Street
Armando Ramos, 2508 Lillie Street

The complaints were those that were stated at the December 18, 1989 public hearing.

- traffic on Winter Street is heavy, this VFW post adds to it considerably
- the patrons of the club park on both sides of Winter Street and on peoples lawns

- they drive recklessly and have hit cars and caused accidents
- the patrons are loud and noisy well into the early morning hours keeping residents awake and this activity goes on nightly
- they have to call the police continually due to the fights and trouble caused by patrons drinking
- the patrons throw their litter into yards as they are leaving the facility
- they did not feel that this neighborhood "tavern" would in any way enhance the neighborhood as the petitioner stated it would
- they stated they are trying to clean up their neighborhood and this is not an asset

Mr. Hughes presented the Commission with a petition signed by area residents in opposition to the proposed rezoning.

In rebuttal Mr. Swihart stated that it has been insinuated that alcohol is the evil and he stated that is not the issue. He stated that the reality is that the neighborhood is just changing. It is not coming back, and they (VFW Post) are trying to make the best of the situtation. He stated that what he is hearing is that the government is not doing what it is supposed to, and that is why the neighborhood is deteriorating. He presented the Commission with pictures of the area. He stated that from Lahmeyer Street south to Lahmeyer Street there is nothing else happening. He stated that Amelia Culpha is the only person living on the west side of Winter Street. He stated this area is changing and not getting much better. He stated he did not feel that the VFW Post is responsible for the general decline of the single family housing in the neighborhood. He stated that the parking problem should be relieved once the new building is complete and the new parking is put in. He stated that he felt that the new parking would probably park all of the cars that the residents are complaining about.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning.

hold in
3/13/90
3/27/90

BILL NO. Z-89-12-16

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the City of Fort Wayne Zoning Map No. 0-3

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (RESOLUTION)

DO PASS	DO NOT PASS	ABSTAIN	NO REC
	Janet G. Bradbury		
	C R Edmonds		
	Samuel J. Talarico		

DATED: 3-27-90

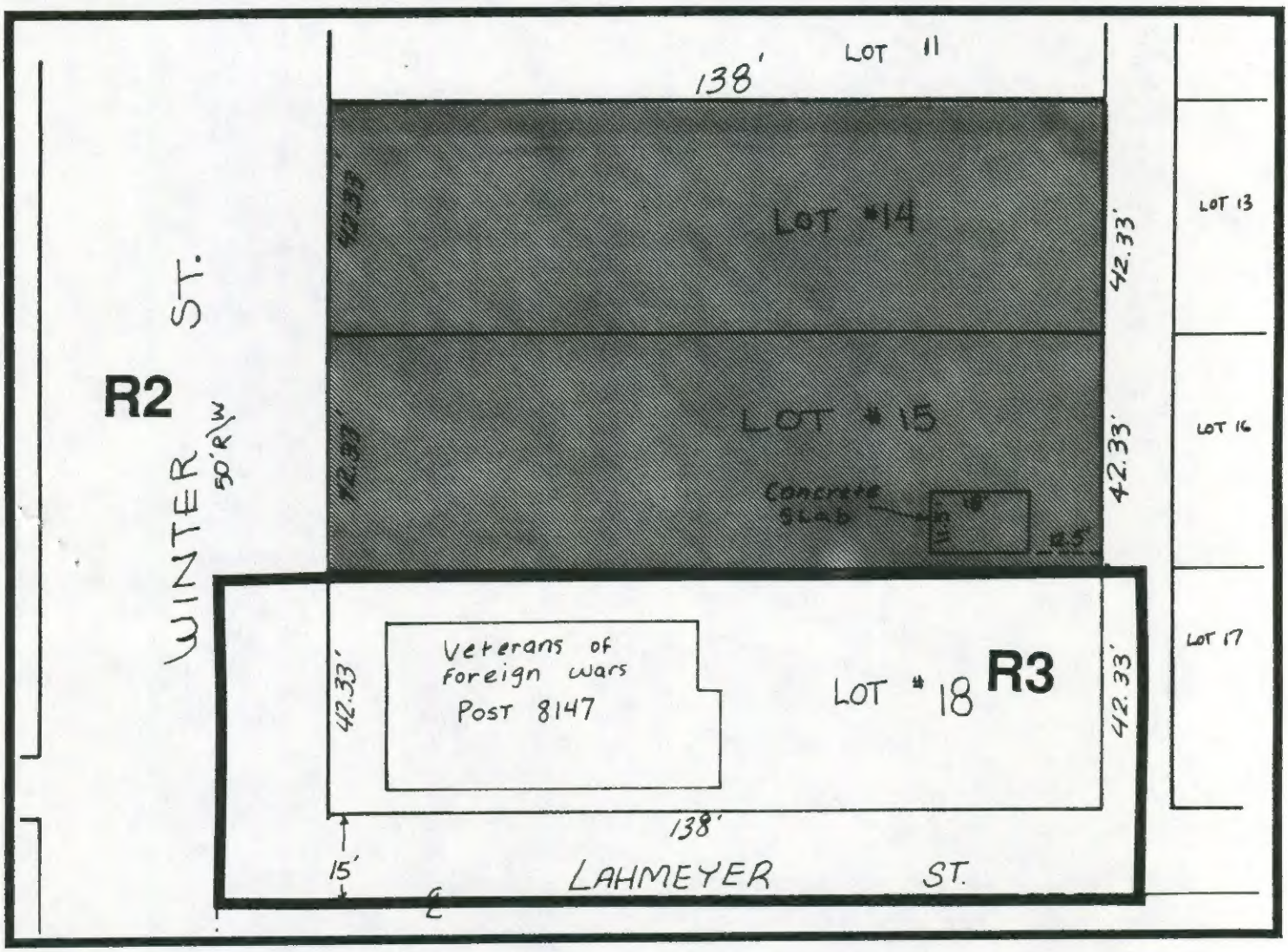
Sandra E. Kennedy
City Clerk

REZONING PETITION #409

A PETITION TO AMEND THE ZONING MAP BY RECLASSIFYING THE DESCRIBED PROPERTY FROM A **R2** DISTRICT TO A **R3** DISTRICT.

MAP NO. **O-3**

COUNCILMANIC DISTRICT NO. **1**



ZONING:

R2 RESIDENTIAL DISTRICT

R3 RESIDENTIAL DISTRICT

LAND USE:

☐ *RECREATIONAL*

☐ *SINGLE FAMILY*

SCALE: 1"=30'

DATE: 11-28-89